



James J.R. Talbot
Assistant Vice President-
Senior Legal Counsel

AT&T Services, Inc.
1120 20th Street NW Ste. 1000
Washington, D.C. 20036

Phone: 202.457.3048
Fax: 202.463.8066
E-mail: jjtalbot@att.com

PUBLIC VERSION

July 15, 2019

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Attn: Thomas Sullivan, Chief, International Bureau

*Re: Request and Notification of Acceptance of Terms and Conditions for Waiver of the
Benchmark Rates for Cuba, IB Docket No. 10-95; ITC-214-19960830-00414*

Dear Ms. Dortch:

AT&T Corp. ("AT&T") requests a three-year extension of the existing waiver of the benchmark rate applicable to telecommunications traffic directly between United States and Cuba. Under this requested extension, the current commercial relationship between AT&T and Empresa de Telecomunicaciones de Cuba S.A. (ETECSA) would continue under the Agreement previously filed with the Commission. A copy of the agreement by AT&T and ETECSA to extend the previously agreed rates is attached for review. AT&T also notifies the Commission that it agrees to accept the terms and conditions for a waiver of the benchmark rate applicable to Cuba as specified in the *TeleCuba Waiver Order* and *International Settlements Policy Reform Order*.¹ AT&T submits the enclosed certification in support of this notification. A request for confidential treatment is also attached.

There is good cause to extend the waiver. Although AT&T has not been able to negotiate a reduction in termination rates with ETECSA, we have engaged ETECSA in good-faith negotiations and believe that progress has been made in developing a common understanding of the potential benefits of such a reduction. There are therefore grounds for "confidence that progress is being made toward the reduction of termination rates."² Under the direct interconnection arrangement, AT&T's outbound traffic volumes on the U.S.-Cuba route since

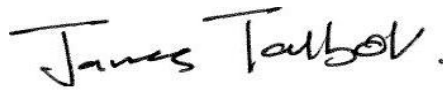
¹ *iConnect Wholesale, Inc. d/b/a TeleCuba, Petition for Waiver of the International Settlements Policy and Benchmark Rate for Facilities-Based Telecommunications Services with Cuba*, 26 FCC Rcd. 5217, ¶ 31 (2011) (*TeleCuba Waiver Order*); *International Settlements Policy Reform*, 27 FCC Rcd. 15521 (2012) (eliminating the International Settlements Policy and applying a modified version to Cuba) (*International Settlements Policy Reform Order*).

² *TeleCuba Waiver Order*, ¶ 32

September 2016 have [REDACTED] and AT&T customers benefit from higher call quality than that available on third-country routes. Additionally, since commencing the direct interconnection arrangement, AT&T has entered into a roaming arrangement with ETECSA that allows AT&T customers to use their mobile devices for voice, data and messaging services while travelling in Cuba.

Please let me know if you have any questions regarding this filing.

Respectfully Submitted,

A handwritten signature in black ink that reads "James Talbot". The signature is written in a cursive, slightly slanted style.

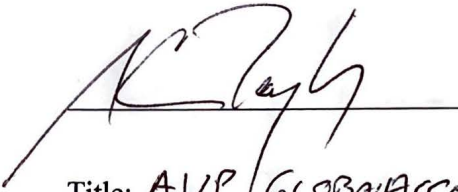
James Talbot
Assistant Vice President - Senior Legal Counsel

cc: Denise Coca
David Krech

Enclosures.

CERTIFICATION

I, STEVEN C TAYLOR, hereby certify that AT&T Corp. accepts the terms and conditions for a waiver of the benchmark rate applicable to Cuba for U.S. carriers seeking to provide direct services between the United States and Cuba, as set forth in Paragraph 31 of the Federal Communications Commission's April 8, 2011 Memorandum Opinion and Order, IB Docket No. 10-95, 26 FCC Rcd. 5217 (2011).

A handwritten signature in dark ink, appearing to read "S. Taylor", written over a horizontal line.

Title: AVP GLOBAL ACCESS MANAGEMENT

July 15 2019

9 de julio de 2019

DVSI/366

George B. Sloan
Vice President, Global Access Solutions,
International Access Management
AT&T Corp.

Asunto: Notificación de extensión de tarifas de servicio telefónico internacional previstas en el Acuerdo para la Operación de Telecomunicaciones internacionales, entre AT&T y ETECSA de fecha 10 de agosto del 2016.

Vicepresidente:

Según lo convenido entre las Partes y lo previsto en el numeral 3.2.1, del Anexo A del referido Acuerdo para la Operación de Telecomunicaciones Internacionales, se le notifica nuestro acuerdo para extender las Tarifas pactadas en dicho Anexo numerales 3.1 y 3.2, por tres (3) años, a partir del 11 de agosto de 2019, hasta el 12 de agosto del 2022.

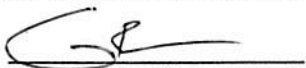
Esta Notificación se ejecuta en inglés y español, cada uno de los cuales se considerará como un original con idéntico efecto legal.

Acordado en nombre de ETECSA:


Ing. Vivian Iglesias Batres
Director Central
División Servicios Internacionales
ETECSA



Acordado en nombre de AT&T Corp.:


George B. Sloan
Vicepresidente, Global Access Solutions,
International Access Management AT&T Corp.
July 9th, 2019



DVSI/366

George B. Sloan
Vice President, Global Access Solutions,
International Access Management
AT&T Corp.

Subject: Notification of extension of international telephone service rates provided in the Agreement for the Operation of International Telecommunications, between AT&T and ETECSA dated August 10, 2016.

Vice President,

As agreed between the Parties and as provided in section 3.2.1, of Annex A of the aforementioned Agreement for the Operation of International Telecommunications, you are notified of our agreement to extend the Rates agreed in said Annex numerals 3.1 and 3.2, for three (3) years, from August 11, 2019, until August 12, 2022.

This Notification is executed in English and Spanish, each of which shall be considered an original with identical legal effect.

Agreed on behalf of ETECSA:


Eng. Vivian Iglesias Barroso
Main Director
International Service
ETECSA



Agreed on behalf of AT&T Corp.:


George B. Sloan
Vice President, Global Access Solutions,
International Access Management
AT&T Corp.





James J.R. Talbot
Assistant Vice President-
Senior Legal Counsel

AT&T Services, Inc.
1120 20th Street NW Ste. 1000
Washington, D.C. 20036

Phone: 202.457.3048
Fax: 202.463.8066
E-mail: jjtalbot@att.com

July 15, 2019

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

ATTN: Thomas Sullivan, Chief, International Bureau

*Re: Request for Waiver and Notification of Acceptance of Terms and Conditions
for Waiver, IB Docket No. 10-95, AT&T Corp., ITC-214-19960830-00414 &
Request for Confidential Treatment*

Dear Ms. Dortch:

AT&T Corp. ("AT&T") hereby submits for review the public version of request for a benchmark policy waiver applicable to U.S. carriers seeking to provide direct telecommunications services to Cuba as specified in the Commission's *TeleCuba Waiver Order*, and as revised by the Commission's *International Settlements Policy Reform Order* and the *Order Removing Cuba from the Exclusion List* ("Waiver Request").¹

Pursuant to the Commission's decision in *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*,² GC Docket No. 96-55 (FCC 98-184), released Aug. 4, 1998 (Confidential Information Order) and in accordance with the Commission's rules related to the Freedom of Information Act, 47 C.F.R. §§ 0.457 and 0.459, AT&T requests confidential treatment of certain competitively sensitive information included in the Waiver Request that plainly falls within the "confidential commercial information" exemption to the FOIA's disclosure requirements. *See* 5 U.S.C. § 552(b)(4). Accordingly, pursuant to the FOIA and Commission Rule 0.459, this confidential data should be maintained by the Commission as confidential and should not be made available for public inspection or disclosure.

AT&T is submitting under separate cover an unredacted version of the Waiver Request marked "CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE."

¹ *iConnect Wholesale, Inc. d/b/a TeleCuba, Petition for Waiver of the International Settlements Policy and Benchmark Rate for Facilities-Based Telecommunications Services with Cuba*, 26 FCC Rcd. 5217, ¶ 31 (2011) (*TeleCuba Waiver Order*); *International Settlements Policy Reform*, 27 FCC Rcd. 15521 (2012) (eliminating the International Settlements Policy and applying a modified version to Cuba) (*International Settlements Policy Reform Order*); *Removing Cuba from the Exclusion List for International Section 214 Authorizations*, 31 FCC Rcd. 194 (2016) (*removing Cuba from the Exclusion List*).

Statement pursuant to 47 C.F.R. § 0.459(b)

1. Specific information for which confidential treatment is sought, 47 C.F.R. § 0.459(b)(1).

AT&T requests confidential treatment for the information contained in the Waiver Request which is redacted on the version of the document bearing the legend “PUBLIC VERSION” at the top of each page, but is not redacted on the version bearing the legend “CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE” at the top of each page. The redacted portion of the Waiver Request contains highly sensitive commercial information, comprising AT&T’s traffic volumes on this route.

2. Circumstances giving rise to this submission, 47 C.F.R. § 0.459(b)(2).

The Waiver Request is submitted pursuant to requirements established in connection with the *TeleCuba Waiver Order* as revised by the Commission’s *International Settlements Policy Reform Order* and the *Order Removing Cuba from the Exclusion List*.

3. Degree to which the information is commercial or financial, or contains a trade secret or is privileged, 47 C.F.R. § 0.459(b)(3).

The redacted portion of the Waiver Request contains sensitive commercial information that should be withheld from public disclosure pursuant to FOIA Exemption 4. 5 U.S.C. § 552(b)(4). The phrase “commercial or financial information” has a broad meaning under the FOIA, and includes anything pertaining to or relating to commerce. *American Airlines, Inc. v. National Mediation Bd.*, 588 F.2d 863, 870 (2d Cir. 1978); *see also Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1290 (D.C. Cir. 1983) (documents are commercial if a submitter has a commercial interest in them). The information at issue here clearly concern AT&T’s business dealings with a foreign supplier and are thus undoubtedly commercial information under the FOIA.

4. Degree to which the information concerns a service that is subject to competition, 47 C.F.R. § 0.459(b)(4).

The U.S. international market is highly competitive. *See, e.g.*, Federal Communications Commission, *2013 International Telecommunications Data*, DOC-334395, at Table 4 (2015). This includes competition among U.S. carriers to terminate calls to Cuba. The Waiver Request relates to AT&T’s routing of international calls to Cuba, which are subject to significant competition.

5. How disclosure of the information could result in substantial competitive harm, 47 C.F.R. § 0.459(b)(5).

Confidential treatment is warranted where release of information would raise “the likelihood of substantial competitive injury” in a competitive market. *Public Citizen Health Research Group v. F.D.A.*, 704 F.2d 1280, 1291 (D.C. Cir. 1983) (quoting *Gulf & Western Industries v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979)). *See also Nat’l Parks and Conservation Ass’n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) (material is “confidential” if it would “cause substantial harm to the competitive position of the person from whom the information was obtained.”). Release of the information contained in the redacted portion of the Waiver Request would cause AT&T

competitive harm because competitors could use that information to identify business opportunities and operate more effectively in the marketplace to the detriment of AT&T.

6. Measures taken to prevent unauthorized disclosure, 47 C.F.R. § 0.459(b)(6).

7. Whether the information submitted is available to the public and the extent of any previous disclosure of the information to third parties, 47 C.F.R. § 0.459(b)(7).

The redacted portion of the Waiver Request contains sensitive commercial information that is maintained on a confidential basis within AT&T and would not ordinarily be disclosed to parties outside AT&T. Thus, this information is “confidential” in that it “would customarily not be released to the public.” *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 873 (D.C. Cir. 1992).

8. Period during which the submitted material should not be available for public disclosure, 47 C.F.R. § 0.459(b)(8).

AT&T requests that confidential treatment apply indefinitely. The redacted material should be withheld from public disclosure as long as the data in question would provide a basis for competitors to gain insight into AT&T’s commercial operations and derive competitive benefits therefrom. AT&T cannot determine when this information would become “stale” for such a purpose.

9. Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.

Exemption 4 of the Freedom of Information Act shields information which is (1) commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. *See Washington Post Co. v. U.S. Department of Health and Human Services*, 690 F. 2d 252 (D.C. Cir. 1982). The redacted material clearly satisfies the first two elements of that test. With respect to the third element of the above test, information is considered to be “confidential” if disclosure is likely to (1) impair the government’s ability to obtain necessary information in the future, or (2) harm substantially the competitive position of the person from which the information was obtained. *National Parks and Conservation Ass’n. v. Morton*, 498 F. 2d 765, 770 (D.C. Cir. 1974). As described above, the information for which the exemption is requested is highly sensitive commercial information, submitted by AT&T, a non-government entity. It thus should be considered confidential. *See* 5 U.S.C. § 552(b)(4); *Nat’l Parks and Conservation Ass’n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) (information required to be submitted to the government is considered to be “confidential” if disclosure is likely to harm substantially the competitive position of the person from whom the information was obtained); *see also Critical Mass Energy Project v. Nuclear Regulatory Comm’n*, 975 F.2d 871, 873 (D.C. Cir. 1992).

Accordingly, AT&T respectfully requests that the Commission withhold from public disclosure the confidential, redacted portion of the Waiver Request. AT&T additionally requests that the non-redacted version of the Waiver Request, which AT&T is submitting under separate cover, not be included in any publication while this request is pending.

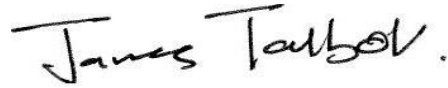
Ms. Marlene Dortch

July 15, 2019

Page 4

If you have any questions concerning this matter, please do not hesitate to contact me.

Respectfully Submitted,

A handwritten signature in black ink that reads "James Talbot." The signature is written in a cursive, slightly slanted style.

James Talbot

Assistant Vice President - Senior Legal Counsel

cc: Denise Coca
David Krech